

**THE FAYETTE COUNTY PLANNING COMMISSION** met on April 7, 2016 at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

**MEMBERS PRESENT:** Jim Graw, Chairman  
Arnold L. Martin, III, Vice-Chairman  
Al Gilbert  
Brian Haren  
John H. Culbreth Sr.

**STAFF PRESENT:** Chanelle Blaine, Planning and Zoning Coordinator  
Patrick Stough, County Attorney

**STAFF ABSENT:** Pete Frisina, Director Community Services  
Dennis Dutton, Zoning Administrator

**Welcome and Call to Order:**

Chairman Jim Graw called the Planning Commission Meeting to order. Chairman Graw introduced the Commission Members and Staff.

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**1. Consideration of the Minutes of the Meeting held on March 17, 2016.**

Al Gilbert made a motion to approve the minutes. Arnold Martin seconded the motion. The motion passed 4-0-1. John Culbreth abstained.

**2. Consideration of Petition No. 1253-16, Trademark Quality Homes, Inc., Owner, and Moore Bass Consulting, Agent, request to rezone 26.90 acres from A-R to R-50 to develop a Single-Family Residential Subdivision. This property is located in Land Lot 59 of the 7th District and fronts on Ebenezer Road.**

Chairman Graw asked for the petitioner to come forward and present to the board.

Sean Shanks with Moore Bass consulting stated that the request is to rezone 26.90 acres from A-R to R-50. He said that the proposed layout would include 20 one (1) acre lots. He added that these lots would be served by a new public road. He stated that the layout brought to them previously had some lots gaining access off of Ebenezer Road. He said that R-50 is compatible with the surrounding zoning and is consistent with the County's Comprehensive Plan. He added that the R-50 would allow for slightly larger house size (2100 square feet) than the surrounding zonings. He stated that during their review all staff departments recommended approval. He asked the Planning Commission if they had any questions.

Chairman Graw asked if anyone would like to speak in favor of this petition. Hearing none he asked if anyone would like to speak in opposition.

Mark Shames stated that he has been a resident of Fayette County for almost 29 years and that the petitioner wants to be his neighbor. He said that before Mr. Wingo was the Tax Commissioner Ms. Charlotte Griggs was the Tax Commissioner. He added that he is living on one (1) of her subdivisions. He stated that the first subdivision was Arlington Trace, the second was Hamilton Glen (his subdivision) and the last was Laura Ridge. He said that all of those subdivisions were two (2) acre lots. He asked if we were changing the plans. He stated that Turtle Cove became Longboat Subdivision it has now opened Pandora's Box. He asked if we approve the rezoning for this petitioner, can Mr. Cavender come by tomorrow and ask for 50 houses on his 35 acre lot. He said that everything up and down Ebenezer has two (2) acre lots. He added that his neighbor has a 50 acre horse farm and asked if he could turn that into a 66 lot subdivision. He asked if anyone would address his concerns.

Al Gilbert stated that the Petitioner will as soon as everybody has voiced their concerns.

Larry Dove said after looking at the overlay for the property it does allow for one (1) acre lots but it also allows for two (2) acre lots. He asked the Planning Commission to reject this application for the one (1) acre lots and instead look at the two (2) acre lot minimum zoning action for this property. He said that Fayette County prides itself on not settling for the least. He added that we demand the best from our schools and services. He said by accepting this one (1) acre minimum they are lowering their standards of the County. He added that once you open up the one (1) acre minimum on Ebenezer Road you won't be able to stop it. He said who's to stop someone else from coming to do lots smaller than one acre. He reiterated his request of asking the Planning Commission to reject the request for one (1) acre lots and instead allow for two (2) acre lots.

Chairman Graw asked if there was anyone else who wanted to speak in opposition. Hearing none the Petitioner came back up with a rebuttal.

Sean Shanks said that when the owner purchased the property he did so believing he could develop one acre lots and it is his preference at this point.

Mark Shames said if we hypothetically approve this can I sell one (1) one of my two (2) acres of land.

Chairman Graw brings the decision back to the Planning Commission for discussion.

Arnold Martin asked if there had been any traffic studies done for that area, based on the amount of lots.

Sean Shanks replied that there had not been any traffic studies done by his firm or the owner.

Arnold Martin asked Sean Shanks if there were any thoughts about the traffic impact.

Sean Shanks said typically on a 20 lot subdivision there is not a massive traffic impact. He added that most municipalities don't require a traffic impact study.

Brian Haren asked if there was any allowance of right of way for that one (1) tract of land that is landlocked.

Sean Shanks replied that the land will have a dedicated easement.

Brian Haren asked if they were going to keep the detention/retention pond with the 20 lots.

Sean Shanks replied yes.

Al Gilbert asked Sean Shanks if they looked at the R-55 option.

Sean Shanks said that the owner mentioned it but would prefer to stay with the R-50 because of the one (1) acre minimum and the 2100 sq. ft. home. He said that the owner is very proud of the product he is going to put in there.

Chairman Graw stated that he is going to bring up the points he brought before the last meeting regarding this zoning. He said that he has look at the map and the different zoning categories on Ebenezer Road. He added that there was a preponderance of A-R and R-70 zoning. He stated that R-70 zoning is two (2) acre lots and that there was a small piece of R-40 which is one (1) acre lots near the southern part of Ebenezer Road. He said that he doesn't feel comfortable with the one (1) acre request whether it be R-50 or R-55. He added that the residents purchased their homes knowing that it was zoned R-70 two (2) acres and assumed that it was going to continue to be two (2) acre zoning. He stated that it is only fair to those people to continue the R-70 zoning. He said the other reason why he feels uncomfortable with the one (1) acre zoning is because it can start a precedent on Ebenezer.

Chairman Graw made a motion to the Board of Commissioners that Petitioner 1253-16 be R-70 with the two (2) conditions that staff has placed on the property. Brian Haren seconds the motion.

Chairman Graw asked if there was any further discussion.

Al Gilbert replied yes. He said that he agreed with Chairman Graw and Brian Haren when he first received his package, but he noticed that staff recommended approval. He said that when we first did a land use plan that area was land use two (2) to five (5) acres, and strangely it became two (2) to three (3) acre later on. He added that in 2004 the Planning Commission and Board of Commissioners unanimously approved a change in the land use from one (1) to two (2) acres. He stated that if the intent was for it to be two (2) acres, it would have stayed two (2) to three (3) acres, but it's one (1) to two (2) acres. He said that the Planning Commission has honored the land use 98 % of the time. He said that he asked Pete Frisina what would be a reason to turn down a rezoning if it meets the land use. He said that Pete Frisina replied environmental, engineering, or public safety. He added that for this particular rezoning request none of these departments come into play, and that's why staff recommended approval for the rezoning. He asked the Planning Commission if they remember the rezoning on Highway 74

South for O-I. He said that behind the property was A-R and estate property on all those lots. He added that across the road was A-R zoning. He stated that it is non-conforming A-R but it's A-R. He said that we voted unanimously to have O-I zoning there because of the land use said that is what is acceptable there. He stated that he doesn't see any difference between the two (2) rezonings. He said that if we don't agree with the land use then the land use needs to be changed. He reiterated that he doesn't feel comfortable voting against the land use.

Chairman Graw stated that he doesn't think an R-70 zoning violates the land use because it says one (1) to two (2) acres. He said that one (1) acres meets the land use and two (2) acres meet the land use. He added that we are not violating anything with the land use.

Al Gilbert asked why it was changed from two (2) to five (5), to one (1) to two (2) acres.

Chairman Graw stated that he doesn't know what the reason was.

Al Gilbert replied the reasoning being is because of what took place on Highway 54. He said that our opinion at the time was that those roads coming off Highway 54 were going to change, and that's why it was change to one (1) to two (2) acres. He reiterated that if the intent was to be two (2) acres it should have been left alone.

Chairman Graw stated that the property that fronts Highway 54 and the property that fronts Ebenezer are two (2) different properties. He said the property that fronts Highway 54 is one (1) acre and the property that fronts Ebenezer Road is five (5) or two (2) acre. He reiterated that both the one (1) acre and the (2) acre meet the land use plan.

Al Gilbert stated that he wasn't talking about the R-40 and R-45 but what was happening on Highway 54. He stated that the roads changed that whole area and that was why they updated the land use plan.

Chairman Graw stated again that he didn't know why we changed the land use there.

Al Gilbert said that Chairman Graw was on the Planning Commission at the time of the update.

Chairman Graw stated that he can't remember back that far. He said that he was looking at what was fair and will not set a precedent for that area. He reiterated that he was very concerned about one (1) acre lots setting a precedent for the area. He added that if you were to do an R-50 one (1) acre what's to stop someone from doing a R-40 one (1) acre, because that meets the land use also.

Al Gilbert stated that the minimum square footage for a home in the R-70 district is 1500, but the R-50 is 2100. He said that he would much rather live next door to a one (1) acre 2100 square foot home as oppose to a two (2) acre 1500 square foot home. He added that he doesn't believe that someone is going to come in and build a 1500 square foot home. He asked the Planning Commission if they had looked at the areas where subdivisions had failed this last go around. He said that banks were selling these lots at wholesale prices. He added that there is a risk in

developing, and that banks don't hold property they get rid of them. He said if they are sold cheaply the developer may build houses that are 1500 square feet on R-70.

Chairman Graw said that he doesn't recall the Planning Commission recommending rezoning based on house sizes, because if that were the case you would have 2100 square foot homes over here and 1500 square foot homes over there and you would have nothing but chaos. He stated that you look at the zoning category whether it is a 40, 50, 55, or 70. He added that you don't consider house size as it is a part of the zoning category, and that's what the developer has to meet if that property is zoned a particular category. He reiterated that we don't look at house sizes because if you did we would have a mishmash of zonings all over the place.

John Culbreth said he was of the opinion if the land use permits the classification on the petition here I'm more inclined to be in favor of it. He added if they didn't vote in favor of it they had no solid grounds to stand on should it be appeal to the court.

Brian Haren stated that he was not inclined to support this. He said that he understood that there is a land use plan there and that one (1) acre lots are permitted, but he is looking at the future of Ebenezer Road. He added that he doesn't want to set a precedent there. He stated that he has looked at this County for the past two (2) years and has noticed that the land rush is back on. He said that he is extremely concerned about what the City is doing as far as high density housing. He added that he feels it is their responsibility on this to committee to defend the County and the traditional way the County has built its way out. He stated that the County is known for quality housing, good size lots, good quality of life, and good schools. He said that he really does not want to see high density development, which he considered to be one (1) acre or less unless there was no other option or the zoning ordinance says it has to be this way. He reiterated that it was their job to defend the County and did not see R-50 zoning as a good fit down Ebenezer Road. He added that it is better suited as R-70 or to keep it A-R.

Arnold Martin asked what was the thinking behind changing the land use in that area, beside the fact that Highway 54 was expanding.

Al Gilbert replied that the feelings were that Highway 54 was going to become O-I, and it was going to change those areas right of it. He added that it was a unanimous decision from the Planning Commission and the Board of Commissioners. He reiterated that the Planning Commission honors the land use 98% of the time. He added that if he was the Petitioner he would be looking at the land use and what it has historically done and one (1) acre has always been accepted where it has been one (1) to two (2) acres. He said that the only two (2) times they voted against land use was Pinewood Studios, which they quickly came back and changed land use and the veterinarian clinic on Highway 54. He reiterated that he has never seen the Planning Commission vote down a zoning that has met the land use.

Chairman Graw said that there is nothing wrong with one (1) acre zoning, but when you have an area with a preponderance of two (2) acre and where you can see that one (1) acre is inconsistent with that area you should go with the zoning that is a preponderance in that area in order to not set a precedent and that is the reason for my motion.



Al Gilbert called the question.

Chairman Graw stated that there is a motion and a second on the table to recommend to the County Commission R-70 with the two conditions. He asked Mr. Shanks if he had seen the two (2) conditions.

Sean Shanks replied yes.

Chairman Graw called for the vote. Motion passed three 3-2. He stated that the County Commission has the final say and are the ones that make the final decision. He added that the public can voice their opinions to them at the meeting.

**3. Consideration of Petition No. RP-059-16, Revision of the Recorded Plat of Jenkins Cove Phase Two to add two (2) acres to Lot 5. This property is located in Land Lot 42 & 55 of the 7th District and fronts on Adams Road.**

Julia Yokum stated she has two (2) acres and has a house built on two (2) and a half acres. She said that she bought the two (2) acres 21 years ago and has two (2) tax bills, and thinks it's time to put them together. She added that she would like her house to be on a combined lot of four (4) and a half acres.

Chairman Graw asked if anyone would like to speak in favor of the petition. Hearing none, he asked is there anyone who would like to speak in opposition. Hearing none, he brought it back before the Planning Commission.

Al Gilbert made a motion to recommend approval of Petition RP-059-16. Arnold Martin seconded the motion. The motion passed 5-0.

**4. Consideration of amendments to the Fayette County Code of Ordinances, Chapter 110., Article VII. - Zoning Board of Appeals, Sec. 110-242. - Powers and Duties.**

Chairman Graw stated that the Planning Commission discussed the amendment at the last meeting. He said that currently there is a paragraph that allows them to establish conditions on a vote, but where the paragraph is placed in the Procedures Section only allows for them apply conditions in a specific case. He said that the Planning Commission is planning to take the paragraph and make it a separate standalone paragraph. He added that by moving it, it will allow for the ZBA to place conditions generally and not in specific sections.

Patrick Stough stated that there was one (1) more change and that was to reinstate the limitation on reapplying after the denial of a variance or any other action by the ZBA.

Brian Haren reiterated Patrick Stough saying that it reinstates a limitation on reapplying.

Al Gilbert stated that it was the same as the Planning Commission.

Chairman Graw said that they didn't have it before.

Al Gilbert said that makes for consistency.

Chairman Graw asked if there was any discussion.

Arnold Martin asked if this was going to be an enhancement to allow you to put such conditions. He added it would be a little bit more specific instead of a yes or no.

Al Gilbert said that Mr. Beckwith could answer this. He said that that sometimes the ZBA has to turn down a variance, but if they could put conditions on it they could approve it.

Bill Beckwith asked Mr. Stough if the minimum time was six (6) months.

Patrick Stough replied that it is six (6) months.

Bill Beckwith asked if they could have a longer time limit.

Patrick Stough replied he doesn't think it would allow for that.

Bill Beckwith reiterated that six (6) months is the time.

Patrick Stough said that it is six (6) months and yes it is the minimum.

Chairman Graw asked Bill Beckwith if he had a problem with what has been composed.

Bill Beckwith replied no, and said that the ZBA had an issue at their last meeting and if they would have had the opportunity to establish a condition it would have helped the proponents and opponents to the property. He said that this was definitely an enhancement to the ZBA procedures.

Chairman Graw stated that it gives the ZBA a lot more flexibility. He said that on their last ZBA meeting they wanted to apply conditions but you were not able to.

Bill Beckwith stated that their hands were tied. He said this is an enhancement and allows them to do a better job. He said that the ZBA is in favor of this recommendation.

Chairman Graw asked if there was anyone who would like to speak in opposition. Hearing none, he brought it back before the Planning Commission.

Brian Haren made a motion to recommend approval of the proposed amendments. John Culbreth seconded the motion. The motion passed 5-0.

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PC Meeting

Al Gilbert made a motion to adjourn the meeting. Chairman Graw said the meeting was adjourned at 7:43 pm.

PLANNING COMMISSION OF  
FAYETTE COUNTY

  
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JIM GRAW, CHAIRMAN

ATTEST:

  
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